

ASSEMBLY BILL

No. 840

Introduced by Assembly Member Robert Pacheco

February 22, 2001

An act to add Section 3294.5 to the Civil Code, relating to exemplary damages.

LEGISLATIVE COUNSEL'S DIGEST

AB 840, as introduced, Robert Pacheco. Exemplary damages.

Existing law provides for the award of exemplary damages where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.

This bill would limit exemplary damages against a defendant who is a small business to 3 times the compensatory damages.

This bill would subject exemplary damages that exceed 3 times the compensatory damages against a defendant who is not a small business to a review de novo by a court of appeal.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3294.5 is added to the Civil Code, to
2 read:

3 3294.5. In any action in which exemplary damages are
4 recoverable pursuant to Section 3294, the following conditions
5 shall apply:

6 (a) In all civil actions in which entitlement to exemplary
7 damages has been established under applicable law against a

1 defendant who is a small business, an award of exemplary
2 damages shall not exceed three times the amount of compensatory
3 damages.

4 (b) In all civil actions in which entitlement to exemplary
5 damages has been established under applicable law against a
6 defendant who is not a small business, an award of exemplary
7 damages that exceeds three times the amount of compensatory
8 damages shall be subject to a de novo review by a court of appeal.

9 (c) As used in this section, “small business” means a small
10 business as determined pursuant to Part 121 of Title 13 of the Code
11 of Federal Regulations.

